Scott. II-27--40,004—6-11-28.

Law (Ml) (1930) Department.

MS SERIES.

G.O. No. 616

DATED 12-2-1930

[Despatch Abstract.]

Legal Assistance -

Certain constables in the South Kanara District travelling allowance for attendance in Court - Negatived.

POLICE DEPARTMENT.

Received ..... 192 *Registered* 192

Subject.

Allowance - Travelling - Constables No.309 Santhappayya and No.199 Shankara of South Kanara district - Attendance at Court as accused - Sanction requested.

ENCLOSURES.
No 1
Spare copies 1

R.C. No. 1606/Audit/29

Station Madras. *Dated the* 4th December 1929.

From (Name) F.A. Hamilton, Esquire, C.I.E.,

(Designation) Inspector-General of Police.

To The Chief Secretary to the Government of Madras,

Public (Police) Department.

Through the Accountant-General, Madras.

Sir,

I have the honour to state that a private individual of Baindur filed a complaint against police constables No.309 Santhappayya and No.199 Shankara of Baindur station and nine others for an offence under sections 147, 323, 342 and 447, Indian Penal Code, in the Court of Stationary Sub-Magistrate, Kundapur, who took it on his file as Calendar Case No.137/29. The Stationary Sub-Magistrate, Kundapur, found that no case against the accused was made out and discharged them under section 253 (1), Criminal Procedure Code. He also ordered the complainant to pay compensation of Rs.8/- to each of the accused.

2. As soon as the complaint was filed, the constables applied for departmental aid and the District Superintendent

of Police, South Kanara, directed the Sub Inspector of Kundapur to defend the constables.

3. The District Superintendent of Police drew travelling allowance amounting to Rs.6-6-0 at the rate of Rs.3-3-0 to each constable and paid it to the constables with reference to G.O. No.3152, Law (General), dated 21st September 1928. The compensation awarded by the Court was realised and paid to the constables on the expiry of three months allowed for revision. As the case ended in the discharge of the accused and as the Magistrate was of opinion that the complaint was false and vexatious, I request that travelling allowance drawn and paid to the constables for the journeys in connection with the case may be borne by the State. C/pp1-2

4. I enclose a copy of the judgment in the case. pp 3-5 "B"

I have the honour to be,

Sir,

Your most obedient servant,

Bechett 4/12/29

for Inspr.-Genl.of Police.

m.s.n. 3/12/29. Das

Copy of judgment in calandar Case No.137/29 on the file of the Stry. Sub Magistrate, Kundapur.

Complainant . Manjaya Sherigara.

Accused.
1. Shesha Sherigara
2. Rangayya Shetty
3. Santhappayya P.C. 309
4. Shankara P.C. 199
5. Manjayya Sherigara
6. Mahabala Sherigara
7. Manjunatha
8. Mokdum
9. Abbokar Sahiba
10. Naga
11. Govinda.

Offence.- Rioting, hurt, wrongful confinement and criminal trespass sections 147, 323, 342 and 447 I.P.C.

Finding. Not proved.

Sentence.- The accused are discharged under section 253 (1) Cr.P.C. and the complainant ordered to pay compensation of Rs. 8/- to each of the accused and in default to suffer simple imprisonment for 25 days.

O r d e r.- This is the complaint filed by one Manjayya Sherigara against the accused who are eleven in number charging them with having committed offences under Sections 147, 323, 342 and 447 I.P.C. The complainant's story is as follows.-

On 29-4-1901 complainant's undivided uncle Nagappa Sherigara obtained an usufructary mortgage certain property in Baindur village for Rs. 300/- vide certified copies of usufructary mortgage deed Ex. A. On 29-4-'05 this Nagappa Sherigara usufructarily mortgaged his right over this property to one Balaya Sherigara for Rs. 200/- and obtained it the same day on chalgeni lease for cultivation-vide certified copies of usufructary mortgage deed Ex. B. and the lease deed Ex. C. Nagappa Sherigara was in possession of the property till his death and after him his widow was cultivating it with the help of the complainant and his cousins. His widow also died last year and the property has since been in the enjoyment of complainant, P.W. 1 and his cousins. The assessment on it was also paid by P.W. 1 this year- vide Exs. D and D1. On 29-6-1929 when P.W.1 his brother and cousin and their females were transplanting seedlings in one of the fields accused 1 to 5 and 7 came there and told them not to cultivate the fields in question on pain of their being sent to jail. P.W. 1 having replied that no one had a right to interfere with them in the enjoyment of the property the said accused went away. On the morning of 30-6-1929 at about

8 or 9 a.m. when P.Ws. 1,4 and their brothers and females were - ploughing and transplanting seedlings in one of the paddy fields comprised in the property in question, all the accused came there, trespassed into their land, accused 3 and 4 stood in front of the ploughing cattle and obstructed them from ploughing the field, accused 1 and 5 unyoked the ploughing cattle, kicked P.W.1's mother and P.W. 1 with their legs, caught P.W.1 at the instigation of A - accused 2 and took him to a bettu field where accused 2 was standing and accused 6 to 11 similarly took his cousins and females there by force. Accused 3 and 4 handcuffed P.W.s 1 and 4 and their two - cousins there, took them to the Police station at Baindur and detained them there till evening, when they were released on bail.

2. Out of the 10 witnesses cited in the complaint 3 have been examined besides the complainant. Of these P.W.s 2 and 4 alone have attempted to support P.W.1 while P.W. 3 has denied all knowledge of the alleged offences. In order to ascertain the circumstances - under which accused 3 and 4 arrested P.W.s 1 and 4 and their brothers, the Sub Inspector of Police, Baindur, has been examined as a court witness. He says that in connection with a petition Ex. I filed by accused 1 for police aid while cultivating the fields in dispute he went to the scene of the alleged offence on the morning of 30-6-1929 and apprehending a breach of the peace he arrested P.W.s 1 and 4 and two others as their conduct was aggressive. According to him accused 3 and 4 merely escorted these four persons to the Police station under his order.

3. The two witnesses P.Ws. 2 and 4 who have spoken to the alleged occurrence are the cousins of P.W.1 and as such they are not disinterested persons. Even their evidence shows that --- accused 2 and 5 to 11 committed no offence whatever. All that they says is that accused 1, 3 and 4 obstructed P.Ws. 1, 4 and others from ploughing the field and that accused 3 and 4 arrested these persons and took them away. There is no evidence whatever to corroborate P.W.1 regarding the other offences complained of by him The statement that accused 3 and 4 arrested P.Ws. 1, 2 and 4, I am inclined to think that the complainant or his cousins have not

been in possession of the disputed fields. It is not clear from Exs. D and D1 that they relate to this property. Even if they relate to it, payment of assessment is no proof of possession of the property for which it is paid. Evidently this complaint is an attempt on the part of the complainant to obtain possession of the fields in question. In this attempt he has recklessly included innocent persons as accused and unnecessarily dragged them to court On the whole, I have no doubt that the complaint is false and vexatious. Accordingly I find that no case against the accused has been made out, which if unrebutted would warrant their conviction and discharge the accused under Sec. 253 (1) Cr.P.C.

4. The complainant when called upon to show cause why compensation should not be awarded to the accused, states that his complaint is true and that his witnesses have been gained over. His explanation is incredible . His own relations have not supported him. I hold for the reasons given in para 3 that the complaint is wholly false and vexatious and accordingly direct that he do pay compensation to the accused at the rate of Rupees eight each in default to suffer simple imprisonment for 25 days.

Sd. B.K. Krishna Rao,
26-7-1929.
Stry. Sub Magte.

/True copy/

District Police Office,
Mangalore, 23-8-1929.

Dt. Supdt. of Police, S.K.

29/8 29/8

A.B.29-8.

29/8.

7/6 Ple. 5377

No. P.A./132. OFFICE OF THE ACCOUNTANT-GENERAL, MADRAS,

Fort St. George, 18th December 192 9.

Enclosures. 4 sheets

Forwarded.

B Krishnaswami Iyer

For Deputy Accountant General.

To

The Chief Secretary to the Government of

Madras,

Public (Police) Department.

VS

7

Publ Police) Dept

Subject. Allowance, — Travelling —
Constable A 309 Sankappayya
and 199 S[illegible] of South Kanara
V — [illegible] al. Court as
accused.

(C. 5377) From the Dy of Police Rc No 1606/Audit/29
dt 4.12.29.

C/p 2

With reference to Govt 3152 Law (General)
dt 21. 9. 1928, the sanction of this criminal
case should have been personally
sanctioned by the D.M. South Kanara or
by the Dy of Police. It is stated that the
Constables applied for departmental aid
and the D.S.P. South Kanara directed
the Sub. Inspector of Kundapur to depute
them. This does not appear to be the
proper course.

2 Draft order sanctioning the T. A
is submitted for consideration. If approved
it may sent to Finance for acceptance.

Sd
6.1.30

Govt may Rowed
Govt pay their TA.
when they get away
with Rs. 8/- conviction?

The question of
conviction found
to Govt servants
deputed at Govt.
expense over recently
in Publ (Govt) in
connection with a
Govt enforcement.

A.G
8/1/30

Publ (Govt)
Concur
C 9/1/30

~~Ex 8~~

~~Extract on page 1 ante~~

The case referred by HS is apparently that relating to Mr Sankaran Nayar, Forest Ranger, who requested the sanction of Govt. for instituting a suit against a correspondent of the ~~Al Ameen~~ Al-Ameen, a vernacular journal in Calicut. It was returned to the Dev dept by the Pol (General) dept with their Roc no. 21-1 on 7.1.1930. The Dev dept may be requested to put up that case for reference and early return

Sd
10.1.1930
C&C
7/1/30

Kurup Pol (General)
24/10.1.30 JK
10/1

In the case referred to above, the Forest Ranger ~~did not bear~~ about the ~~Conduct~~ the prosecution at their ~~expense~~; ~~—~~ he only sought Govt sanction to institute the prosecution.

JK
10.1.30

Will Dev. please
put up the file referred
to
(10.1.30
Dev

Police 5377-I
26.1.30.

D 218-I
21.1.30

To U.S.

Dev Dept

Odium see Public note on the previous [illegible] Dev No. 112 Dev Dy 20.1.30 regarding to whom is best of labour. But it does not appear whether this is the case referred to by the Under Secretary Public Dept. The case referred to by at pt 1 supra has been disposed of on Ex. No 3190 Law (Gl) of 15.8.29 and the Ex. is also put up. with these remarks the file may be sent to Public (Police) Dept.

ASSISTANT SECRETARY TO GOVT. Ole! 377 24 JAN 1930 CHIEF SECT.

22.1.30 Dy 21.1.30

M 24/1/30

Public

Dev No 218 I/30-1aw

24.1.30

Publ Police) Dept

J

Pp 21-22

It was decided in Govt 3190 Law (Genl) dt 15.8.1929 that the compensation awarded to the accused (Forest subordinates) by the Court should not be paid to them but should be paid to the pleader towards his fees. In the present case no pleader was engaged. The Sub. Inspector of Police (Kundapur) defended the two accused. The Court awarded a compensation of Rs 8/- each of the accused. They were given (each) Rs. 3-3-0 according to Rs 6/- Following the

P2 CF

P1 CF

P2 CF

The T. a amount may perhaps be held to be covered by the amount of compensation awarded to them and no t. a allowed.

2. For the sake of uniformity orders in this case may issue in the Law (General) Deptt, if that deptt has no objection. The order should include a para re: the point raised in para 1 of the note on p/ supra

Cu A

25.1.30

28/Eng
27/1/30

I concur

refute T.A. in this

case. The principle is

the same as in the case

of T. It is that Govt.

Servants should not be

allowed to get away with

"compensation" when Govt.

expenditure is involved. In

this case Govt, Govt. in

effect deducted this compensation

from the fee amounts for this

case awarded to T.A. Even

if these compensations

I consider have objection that

Govt. pays the difference.

But as it is less Govt

need not pay anything

Cu 28/1/30

CS

11

I agree with U.S. that the accused having been paid compens.n in excess of the t.a. for which they are eligible shd not be paid t.a. in addn to Govt.
If Law (Genl) concurs in this view, orders may be issued in that Dept.

Pol 5377-2/30 3.2.30

Law (General) a.o. 7/2/30

B 24 5 dealt 3.2.30

Law (Law) Dept.

ais

This Dept may agree with the above view. A draft order is submitted for approval.

CR 8/2

CR 10/2

S 10/2

Jw 11.2

Secty 11-5 (a)—48,004—6-11-28. (6)

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Legs (Gen) DEPARTMENT.

Legal assistance
Certain Constables in the
S. Kanara Dt. - to be
attendance at Court - Magistrate
- 1 Febrab

READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO :—

C. No. ..... From the D.G. of Police R.C. No. 1606/Ad.III/29 dated 4. 12. 1929.

" " ..... " " ..... " ..... " ..... 192 .

" " ..... " " ..... " ..... " ..... 192 .

ORDER.

No. 616, dated 12-2-30 192 .

The Govt. see no reason to sanction the grant of ta. to Police Constables No 309, Santhappayya and No 199, Shankara of Bantwal station, S. Kanara district in connection with their defence in C.C. No 137/29 on the file of the Sty. Sub-Magte, Kundapur.

2. The D.G. of Police is requested to draw the attention of the D.S.P. to the fact that he had no power to sanction the

A at p 4 Kf

defence of the Constables with-
reference to standing order
no 1-B-mentioned in Part-III (a) of
of the annexure to Go 450 dated 1-3-21.

The D.G. of Police
Lib. (Police) Dept
D.G.